

Remarks

In response to the Office Action dated August 28, 2008, Applicant respectfully requests reconsideration based on the above claim amendments and the following remarks. Applicant respectfully submits that the claims as presented are in condition for allowance. Claims 1, 11, 20 have been amended. Claims 12, 17-19 and 24-26 have been cancelled without prejudice or disclaimer. Claim 30 and 31 are new. No new matter has been added. Support for the additional subject matter added to the claims may be found in paragraph 36.

Interview Summary

The undersigned participated in a telephone interview with the Examiner on November 13, 2008. During the interview it was agreed that the Wagner reference failed to disclose that packetized data signals and telephony signals travel on the same network. The Tomich reference was also discussed in regards to whether each node de-multiplexed and re-multiplexed the communication signals prior to the signal being transmitted from one node to the next.

112 Rejections

Claims 17 and 19 were rejected under the previous Office Action under 35 USC 112. These two claims have been canceled. Therefore, the 112 rejection is moot.

103 Rejections

Claim 11 stands rejected under 35 USC §103(a) as being unpatentable over Tomich (US Pat. 5,983,068) in view of Farber (US Pat. 6,486,907). Claims 1-2, 5-6, 8, 10, 20-21, 26, 29 stand rejected under 35 USC §103(a) as being unpatentable over Tomich in view of Farber and further in view of Wagner US Pat. (5,761,602). Claims 7, 9, 22 and 23 stand rejected under 35 USC §103(a) as being unpatentable over Tomich in view of Farber and further in view of Applicant's alleged admitted prior art. Applicant respectfully traverses the rejections to the extent they apply to the currently pending claims.

Claims 1-2 and 5-10

Amended independent claim 1 recites, in pertinent part:

[a] system for delivering to a plurality of subscribers located on a second side of a right-of-way a video signal ... wherein the central office transmits both a telephony signal and a packetized data signal over the same network to the multiplexer...such that the telephony signal and a packetized data signal must cross the right-of-way to reach the multiplexer...the wireless receiver receiving the video signal and transmitting the video signal to the multiplexer, the multiplexer combining the video signal, the telephony signal and the packetized data...

It is respectfully submitted that the combination of Tomich, Farber, and Wagner fails to disclose each of the features recited by claim 1. For example, amended independent claim 1 recites "...the central office transmits both a telephony signal and a packetized data signal over the same network to the multiplexer...such that the telephony signal and a packetized data signal must cross the right-of-way to reach the multiplexer". The combination of references fails to disclose that a central office transmits both a telephony signal and a packetized data signal across a right-of-way over the same network.

The Office Action contends that Wagner describes a video distribution system wherein a central office will transmit both telephony and packetized data signals to a user. However, Wagner describes the signals traveling through two discrete networks – the cable TV network and PSTN. This is in contrast to claim 1 which recites that both the telephony signal and the packetized data are transmitted across the right-of-way through the same network. Thus, Wagner fails to disclose all of the features of claim 1. The combination of references also fails to disclose all of the features of claim 1.

Claim 1 is distinct from the combination of references for at least one additional reason. Claim 1 recites that both the telephony signal and packetized data are transmitted from the central office. Wagner describes that both data transmitted over the PSTN and data transmitted over a cable TV network pass through a router to reach an ISP. The Office Action is apparently equating the router with the central office. However, the central office as recited by claim 1 is distinct from the router described by Wagner. Additionally, the signals from the PSTN passing through the router described by Wagner are data signals, not telephony signals as recited by claim 1. Thus, Wagner is describing two types of data signals traveling through a router, not a telephony signal and packetized

data transmitted from a central office. Therefore, Wagner fails to describe all of the features of claim 1 for this additional reason. The combination of references also fails to disclose all the features of claim 1.

Thus, claim 1 is allowable over Tomich, Farber, and Wagner for these additional and independent reasons. Claims 2 and 5-10 depend from claim 1 and are allowable for at least the same additional and independent reasons.

Claims 11 and 13-16

Amended independent claim 1 recites, in pertinent part:

[a] method for delivering to a plurality of subscribers a first signal that is subject to right-of-way franchise fees, wherein the method comprises:

(a) transmitting a second signal and a third signal from a first side of the right-of-way, through the right-of-way, and to a second side of the right-of-way, wherein the first side is opposite the second side, the second signal comprising at least a voice signal, the third signal comprising at least packetized data, the second signal and third signal transmitted through the right-of-way via the same network;

(b) receiving, via a wireless communication, the first signal on the second side of the right-of-way such that the first signal does not pass through the right-of-way, the first signal comprising at least a video signal;

(c) combining the first signal, the second signal and the third signal into a combined signal on the second side of the right-of-way

It is respectfully submitted that the combination of Tomich, Farber, and Wagner fails to disclose each of the features recited by claim 11. For example, amended independent claim 11 recites “transmitting a second signal and a third signal from a first side of the right-of-way, through the right-of-way, and to a second side of the right-of-way, wherein the first side is opposite the second side, the second signal comprising at least a voice signal, the third signal comprising at least packetized data, the second signal and third signal transmitted through the right-of-way via the same network.” The combination of references fails to disclose that a second signal and a third signal are transmitted through a right-of-way on the same network where the signals comprise at least a voice signal and packetized data.

The Office Action contends that Wagner describes a video distribution system wherein both telephony and packetized data signals are transmitted through a right-of-way. However, Wagner describes the signals traveling through two discrete networks –

the cable TV network and PSTN. This is in contrast to claim 11 which recites that both the telephony signal and the packetized data are transmitted across the right-of-way through the same network. Thus, Wagner fails to disclose all of the features of claim 11. The combination of references also fails to disclose all of the features of claim 11. Thus, claim 11 is allowable over Tomich, Farber, and Wagner for at least these reasons. Claims 13-16 depend from claim 11 and are allowable for at least the same additional and independent reasons.

Claims 20-23 and 29

Amended independent claim 20 recites, in pertinent part:

[a] method for delivering to a plurality of subscribers a first signal that is free of right-of-way franchise fees, wherein the method comprises:

(a) transmitting a second signal and a third signal from a central office through a right-of-way to a multiplexer, wherein the central office is located on a first side of the right-of-way and the multiplexer is located on a second side of the right-of-way opposite the first side, the second signal comprising at least a voice signal, the third signal comprising at least packetized data, the second signal and third signal transmitted through the right-of-way via the same network

It is respectfully submitted that the combination of Tomich, Farber, and Wagner fails to disclose each of the features recited by claim 20. For example, amended independent claim 20 recites “transmitting a second signal and a third signal from a central office through a right-of-way to a multiplexer... the second signal comprising at least a voice signal, the third signal comprising at least packetized data, the second signal and third signal transmitted through the right-of-way via the same network.” The combination of references fails to disclose that a central office transmits both a telephony signal and a packetized data signal across a right-of-way over the same network.

The Office Action contends that Wagner describes a video distribution system wherein a central office will transmit both telephony and packetized data signals to a user. However, Wagner describes the signals traveling through two discrete networks – the cable TV network and PSTN. This is in contrast to claim 20 which recites that both the telephony signal and the packetized data are transmitted across the right-of-way through the same network. Thus, Wagner fails to disclose all of the features of claim 20. The combination of references also fails to disclose all of the features of claim 20.

Claim 20 is distinct from the combination of references for at least one additional

reason. Claim 20 recites that both the telephony signal and packetized data are transmitted from the central office. Wagner describes that both data transmitted over the PSTN and data transmitted over a cable TV network pass through a router to reach an ISP. The Office Action is apparently equating the router with the central office. However, the central office as recited by claim 20 is distinct from the router described by Wagner. Additionally, the signals from the PSTN passing through the router described by Wagner are data signals, not telephony signals as recited by claim 20. Thus, Wagner is describing two types of data signals traveling through a router, not at least the telephony signal and the packetized data transmitted from a central office. Therefore, Wagner fails to describe all of the features of claim 20 for this additional reason. The combination of references also fails to disclose all the features of claim 20. Thus, claim 20 is allowable over Tomich, Farber, and Wagner for these additional and independent reasons. Claims 22-23 and 29 depend from claim 20 and are allowable for at least the same additional and independent reasons.

Claim 29

Claim 29 depends from claim 20 is allowable for at least the same reasons. Claim 29 is also allowable for at least one additional reason. Claim 29 recites “[t]he method of claim 20 wherein the first signal, the second signal and the third signal each originate from the same service provider”. Amended claim 20 recites that the first signal is at least a video signal, the second signal is at least a voice signal and the third signal is at least packetized data. Applicant respectfully asserts that Tomich, Faber, Wagner or their combination fails to describe that a first signal, a voice signal and a packetized data originate from the same service provider.

The Office Action contends that FIG. 1 of Wagner describes that the first signal, second signal and third signal originate from the same service provider. However, FIG. 1 of Wagner only shows that data transmitted to or from an ISP travels through a router and travels through a cable TV network and the PSTN. The figure fails to describe that a telephony signal, packetized data, and a video signal all originate from the same source. Tomich concerns distributing video, audio, and telephony data to a collection of nodes and also fails to describe that a telephony signal, packetized data, and a video signal all

originate from the same source. Farber concerns the distribution of video signals and fails to describe that a telephony signal, packetized data, and a video signal all originate from the same source. Therefore, the combination of Tomich, Farber, and Wagner fails to disclose all the features recited by claim 29. Thus, claim 29 is allowable over the combination for at least this additional and independent reason.

Claims 30 and 31

Amended independent claim 30 recites, in pertinent part:

[a] method for delivering to a plurality of subscribers a video signal that is free of right-of-way franchise fees, wherein the method comprises:

- (a) receiving both a telephony signal and a packetized data signal by a multiplexer over the same network across a right-of-way;
- (b) receiving by the multiplexer a video signal from a wireless receiver;
- (c) combining by the multiplexer the telephony signal, the packetized data signal and the video signal into a combined signal; and
- (d) distributing by the multiplexer to a plurality of subscribers the combined signal.

It is respectfully submitted that the combination of Tomich, Farber, and Wagner fails to disclose each of the features recited by claim 30. For example, amended independent claim 30 recites “receiving both a telephony signal and a packetized data signal by a multiplexer over the same network across a right-of-way.” The combination of references fails to disclose that both a telephony signal and packetized data signal are received by a multiplexer over the same network across a right-of-way.

The Office Action contends that Wagner describes a video distribution system wherein both telephony and packetized data signals are transmitted through a right of way to a user. However, Wagner describes the signals traveling through two discrete networks – the cable TV network and PSTN. This is in contrast to claim 30 which recites that both the telephony signal and the packetized data are received across the right-of-way over the same network. Thus, Wagner fails to disclose all of the features of claim 30. The combination of references also fails to disclose all of the features of claim 30. Therefore, claim 30 is allowable over Tomich, Farber, and Wagner for at least this reason. Claims 31 depends from claim 30 and is allowable for at least the same reason.

Conclusion

Applicants assert that the application including claims 1-2, 5-11, 13-16, 20, 22-23, 26 and 29-31 are now in condition for allowance. Applicants request that a Notice of Allowability be provided. Should the Examiner have any questions or comments, the Examiner is invited to call the undersigned at the number listed below.

No fees are believed due. However, please charge any additional fees or credit any overpayment to Deposit Account No. 50-3025.

Respectfully submitted,

Date: December 4, 2008

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